

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

DANIELLE ROSENFELD and VINCENT  
GARCIA, on behalf of themselves and all others  
similarly situated,

Plaintiffs,

-against-

TARA LENICH; CITY OF NEW YORK; LU-  
SHAWN M. THOMPSON, AS  
ADMINISTRATOR OF ESTATE OF  
KENNETH P. THOMPSON; ERIC  
GONZALEZ; MARK FELDMAN; WILLIAM  
SCHAEFER; BRIAN DONOHUE; WILLIAM  
POWER; MICHAEL DOWLING; JOSEPH  
PIRAINO; and ROBERT KENAVAN,

Defendants.

No. 18 Civ. 6720 (NGG)(PK)

**DECLARATION OF  
JAMES I. GLASSER**

JAMES I. GLASSER, an attorney duly admitted to practice before this Court and the courts of the State of New York, declares the following to be true under penalty of perjury, pursuant to 28 U.S.C. § 1746:

1. I am a partner in the law firm of Wiggin and Dana LLP. Along with our co-counsel, Emery Celli Brinckerhoff & Abady LLP (“ECBA”), Wiggin and Dana represents Plaintiffs Danielle Rosenfeld, Vincent Garcia, and the putative class. I submit this Declaration in support of Plaintiffs’ motion for final approval of their settlement with the City of New York, Lu-Shawn M. Thompson, Eric Gonzalez, Mark Feldman, William Schaefer, Brian Donohue, William Power, Michael Dowling, Joseph Piraino, and Robert Kenavan (collectively, the “City Defendants”).

2. Wiggin and Dana also represented Detective Jarret Lemieux in his separate lawsuit against the City Defendants and Tara Lenich. *See Lemieux v. Lenich*, No. 18 Civ. 6721 (NGG)(PK) (E.D.N.Y.) (“*Lemieux*”). The *Lemieux* matter was settled in April 2020.

3. During our pre-suit investigation in the *Lemieux* matter, we reviewed Detective Lemieux’s phone bills for the period during which his cell phone was illegally wiretapped. Based on this preliminary review, we estimated that Detective Lemieux had made or received phone calls and text messages to several hundred other unique phone numbers.

4. In or around late October 2018, my partner Tadhg Dooley and I met with Richard Emery, Sam Shapiro, and Jessica Clarke of the Emery Celli law firm. The Emery Celli lawyers represented Stephanie Rosenfeld in a then pending lawsuit, *Rosenfeld v. Lenich, et al.*, No. 17 Civ. 7299 (NGG)(PK) (E.D.N.Y.) (“*Rosenfeld I*”).

5. The Emery Celli lawyers informed us that they had determined through discovery that Stephanie Rosenfeld had exchanged phone calls or text messages with approximately 150 unique numbers during the period in which her cell phone was illegally wiretapped.

6. Seeing that none of these victims of the illegal wiretap had come forward to assert their rights under the Wiretap Act, and recognizing that the statute of limitations on their claims would run on November 28, 2018, ECBA and Wiggin and Dana jointly decided to pursue a putative class action to seek compensation for these victims and send the appropriate deterrent message to law enforcement for lax and inadequate policies and procedures surrounding instituting, monitoring and reauthorizing wire interceptions.

7. Wiggin and Dana possesses extensive experience handling complex litigation in federal court, including class actions, though generally on the defense side.

8. Wiggin and Dana has served as lead defense counsel in the following cases asserting class claims, among others: *Labul v. XPO Logistics, Inc.*, 18-cv-2062 (SRU) (D. Conn. 2018)(putative class action under PSLRA); *In re Higher One Oneaccount Mktg. & Sales Practices Litig.*, MDL No. 2407 (consolidating five class actions against financial services company); *Perez v. Higher One Holdings, Inc., et al.*, No. 14-cv-00755-AWD (D. Conn. 2014) (securities class action against financial services company); *In re Subway Footlong Sandwich Mktg. & Sales Practices Litig.*, MDL No. 2439 (consolidating nine consumer protection class actions against one of the world's largest franchisors); *Artie's Auto Body v. The Hartford Fire Ins. Co.*, 317 Conn. 602 (2015) (lead counsel on appeal, reversing largest class action judgment and unfair trade practices judgment in Connecticut history); *Accardi v. Hartford Underwriters Ins. Co.*, 838 S.E.2d 454 (N.C. 2018) (lead trial and appellate counsel in class action alleging improper calculation of "actual cash value" under homeowner's insurance policies); *Laquer v. The Priceline Group Inc.*, 722 Fed. Appx. 22 (2d Cir. 2018) (class action alleging improper collection of tax payments by rental car customers was dismissed on motion to dismiss); *Sawyer v. Coopersurgical, Inc., et al.*, No. 2022-CC-00193 (St. Louis Cir. Ct 2020) (class action alleging violation of Telephone Consumer Protection Act "TCPA"); *Kwesell v. Yale Univ.*, No. 3:19-cv-1098 (D. Conn.) (putative class action alleging the university's wellness program violates the Americans with Disability Act ("ADA") and the Genetic Information Nondiscrimination Act); *Rubin v. Montefiore Medical Center*, No. 1:18-cv-11066-AT (S.D.N.Y.) (class action alleging violations of the Fair Debt Collection Practices Act); *Moskowitz v. Doctor's Assocs. Inc.*, No. 3:17-cv-00387-AWT (D. Conn.) (nationwide consumer class action alleging defendant misrepresented contents of food products); *Moskowitz v. American Savings Bank*, No. 3:17-cv-00307-AWT (D. Conn.) (putative class action under TCPA); *Sullivan v. Doctor's Associates*,

*LLC*, 2020 WL 353752 (S.D.N.Y. Jan. 17, 2020) (alleging violations of ADA); *Kaye v. Merck & Co., Inc.*, No. 3:10-cv-01546 (D. Conn.) (lead counsel in TCPA lawsuit, obtained denial of class certification and later dismissal on the merits of individual claim); *Elite Advantage v. Trivest Fund IV, L.P.*, 2016 WL 7409687 (N.D. Ind. Jan. 14, 2016) (dismissing RICO and unfair trade practices class action brought by franchisees).

9. The Wiggin and Dana lawyers assigned to this matter are well versed in class-action practice and are well qualified to represent the class in this particular case involving the federal Wiretap Act, Title III. I am the Chair of Wiggin and Dana's litigation department and I possess more than three decades of experience representing the government, institutions and individuals in civil and criminal matters. I have represented pharmaceutical companies, financial service companies, and global logistics providers in putative class-action matters. Before entering private practice, I was an Assistant United States Attorney for nearly twenty years and held senior positions, including Counsel to the U.S. Attorney, Chief of the Criminal Division, Chief of Appeals and Supervisory Assistant U.S. Attorney. During my time as a prosecutor, I was personally involved in more than a dozen investigations utilizing Title III surveillance. In addition, as a Supervisory Assistant U.S. Attorney and Chief of the Criminal Division I oversaw and supervised more than 50 wiretap applications and resulting orders and became intimately familiar with the requirements of Title III. In addition, since entering private practice, I was asked by the Justice Department to represent a former FBI agent who was sued for exceeding the scope of an authorized wiretap. *See Drimal v. Makol*, No. 13-2963 (2d Cir. 2015). I also have experience in class-action defense, including representing XPO Logistics currently in a securities class action, *Labul v. XPO Logistics, Inc.*, 18-cv-2062 (D. Conn. 2018).

10. Tadhg Dooley is a partner in the litigation department, focusing on complex litigation and appeals. A nationally recognized appellate lawyer, Mr. Dooley has been closely involved in the defense of two putative class action lawsuits, *In re Higher One Oneaccount Mktg. & Sales Practices Litig.*, MDL No. 2407; and *Laquer v. The Priceline Group Inc.*, 722 Fed. Appx. 22 (2d Cir. 2018), and is currently part of a team representing The Hartford in dozens of appeals stemming from COVID-19-related litigation, including several putative class actions

11. Mr. Dooley and I have been assisted in this matter by a number of current and former associates. Ariela C. Anhalt is a 2015 graduate of Yale Law School who clerked for Second Circuit Judge John Walker and Judge Paul Engelmayer on the Southern District of New York. She is currently clerking for Second Circuit Judge William Nardini. Jacob Sand is a 2011 graduate of the University of Pennsylvania Law School, who was for several years prior to joining Wiggin and Dana an Assistant District Attorney in Philadelphia. Samuel Breitbart is a 2016 graduate of Cardozo School of Law, who served as a law clerk to Southern District Magistrate Judge Henry Pitman and as a student law clerk to former Southern District Judge Shira Scheindlin. Timothy Cowan is a 2018 graduate of Washington University in St. Louis School of Law, who served as an extern to Magistrate Judge Stephen C. Williams in the Southern District of Illinois and will soon be commencing a clerkship with Judge Gary Brown of the Eastern District of New York.

12. In addition, Mr. Dooley and I have consulted frequently with our partners Kim Rinehart and John Doroghazi. Ms. Rinehart is chair of Wiggin and Dana's Class Action Defense Practice Group, and has extensive experience defending class-action lawsuits in a range of areas, including suits arising under state consumer-protection statutes, insurance contracts and regulations, and the TCPA. Mr. Doroghazi similarly has served as lead counsel in nationwide



class actions and has extensive experience defending class-action lawsuits alleging claims under state consumer-protection statutes and the TCPA. Indeed, either or both Mr. Doroghazi and Ms. Rinehart were involved in virtually every case listed in paragraph 8, above. As shown in the following chart, Wiggin's fees total fees for this matter, through July 2021, amount to \$393,135.

<b>Timekeeper</b>	<b>Rate per Hour</b>	<b>Total No. of Hours</b>	<b>Total Fees</b>
Ariela C. Anhalt	\$400	22.6	\$9,040.00
Diana Dieciedue	\$225	9.9	\$2,227.50
Jacob A. Sand	\$525	7	\$3,675.00
James I. Glasser	\$750	97.5	\$73,125
John Doroghazi	\$575	18.7	\$10,752.50
Robert J. Buchanan	\$225	4.8	\$1,080.00
Samuel Breitbart	\$425	22.6	\$9,605.00
Tadhg A. J. Dooley	\$575	425.1	\$244,432.50
Timothy C. Cowan	\$375	24.4	\$9,150.00
<b>Totals</b>		<b>632.6 hours</b>	<b>\$383,135.00</b>

13. Wiggin and Dana has also incurred costs in the amount of \$9,476.91 for legal research, travel, filing fees, postage, and records management, as set forth below:

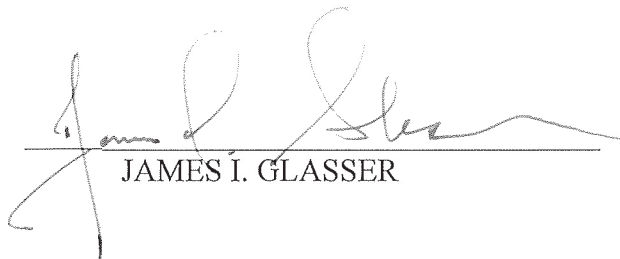
<b>Category</b>	<b>Amount</b>
Legal Research	\$ 8,980.00
Travel	\$ 309.01
Filing Fees	\$ 150.00
Postage	\$ 20.00
Records	\$ 17.90
<b>Total</b>	<b>\$ 9,476.91</b>

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 23, 2021

New Haven, Connecticut

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JAMES I. GLASSER